

HONORABLE JOHN H. CHUN

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
SEATTLE DIVISION

JENNIFER CARRERA, ET AL,

Plaintiffs,

v.

WHITEPAGES, INC.

Defendant.

NO. 2:24-cv-01408-JHC

JOINT STATUS REPORT AND DISCOVERY  
PLAN AS REQUIRED BY FRCP 26(F)

Plaintiffs Jennifer Carrera, Carol Anderson, and Becky Jo Palmer (collectively, “Plaintiffs”), and Defendant Whitepages, Inc. (“Whitepages”), by and through their attorneys of record, after a telephonic FRCP 26(f) conference on November 4, 2024, jointly submit the following report in compliance with FRCP 26(f), Local Civil Rule 26(f), and the Court’s October 21, 2024 Order Regarding Initial Disclosures, Joint Status Report, and Early Settlement.

**1. STATEMENT OF NATURE AND COMPLEXITY OF THE CASE**

Plaintiffs Jennifer Carrera, Carol Anderson, and Becky Jo Palmer (“Plaintiffs”) filed their original Complaint against Whitepages on September 5, 2024. Dkt. 1. Plaintiffs bring claims on behalf of themselves and several putative classes under the Washington Personality Rights Act, RCW 63.60 *et seq.*, the California Right of Publicity Law, Cal Civ. Code § 3344, the Illinois Right of Publicity Act, 765 ILS 1075/1 *et seq.*, and the Ohio Right of Publicity in Individual’s Persona

Act, Ohio Rev. Code Ann. § 2741.01 *et seq.* Plaintiffs allege that Defendant used their names, identities, and other protected personal attributes, (and those of the of the putative class members) to advertise for Whitepages' paid services without consent. Whitepages filed its motion to dismiss (Dkt. 13) on November 4, 2024, and a motion to compel arbitration (Dkt. 16) on November 8, 2024.

## **2. PROPOSED DEADLINE FOR JOINING ADDITIONAL PARTIES**

The parties propose January 3, 2025 as the deadline to join additional parties.

## **3. PROPOSED DEADLINE FOR FILING OF MOTION FOR CLASS CERTIFICATION MOTION**

The parties propose October 31, 2025 for the filing of the motion for class certification.

## **4. CONSENT TO ASSIGNMENT OF CASE TO MAGISTRATE JUDGE**

The parties decline to consent to the assignment of this case to a full-time magistrate.

## **5. PROPOSED DISCOVERY PLAN AND THE PARTIES' VIEWS AND PROPOSALS ON ALL ITEMS SET FORTH IN FED. R. CIV. P. 26(f)(3).**

### **A. The FRCP 26(f) Conference and the FRCP 26(a) Initial Disclosures.**

All parties participated in the FRCP 26(f) conference on November 4, 2024 and served their FRCP 26(a) Initial Disclosures on November 18, 2024, as required by this Court's October 21, 2024 Order Regarding Initial Disclosures, Joint Status Report, and Early Settlement.

### **B. Subjects, Timing, and Potential Phasing of Discovery.**

Discovery should include production of all non-privileged relevant documents located via a reasonable search. The parties agree that discovery should be phased, with the first phase concerning Plaintiffs' individual claims and class certification issues. If a class is certified, the second phase would concern the class.

### **C. Electronically Stored Information.**

The parties intend to enter into a separate agreement governing the disclosure of Electronically Stored Information.

**D. Privileged Information.**

The parties do not anticipate any special issues relating to privileged information.

**E. Limitations on Discovery.**

The parties agree that there should be no changes to the limitations on discovery imposed under the Federal and Local Civil Rules and that no other limitations should be imposed at this time.

**F. Other Discovery Related Orders.**

For now, the parties do not believe that any other orders should be entered by the Court under FRCP 26(c) or under Local Rule 16. The parties are consulting regarding confidentiality concerns that may arise in this case and intend to seek a protective order.

**6. THE PARTIES' VIEWS ON TOPICS OUTLINED IN LOCAL CIVIL RULE 26(f)(1)**

**A. Prompt Case Resolution.**

Whitepages believes that Plaintiffs' claims are subject to the arbitration agreement set forth in the Terms of Use on the Whitepages, People Search, and 411 websites (<https://www.whitepages.com/terms-of-service>, <https://peoplesearch.com/terms-of-service>, and <https://www.411.com/terms-of-service>). Whitepages has moved to compel arbitration of Plaintiffs' claims. Plaintiffs believe the claims are not subject to arbitration because Defendant cannot show consent to the websites Terms of Use and will oppose Defendant's motion to compel arbitration. The parties are aware of the benefits of early resolution but have not yet determined the feasibility of early settlement or whether mediation would be helpful at this time or later in the litigation.

**B. Alternative Dispute Resolution.**

Whitepages has moved to compel arbitration of this dispute pursuant to the Terms of Use; Plaintiffs have opposed that motion. If the matter is not arbitrated, the parties are mindful of the potential benefits associated with early or other participation in mediation or other dispute resolution processes. They are not prepared to engage in alternative dispute resolution at this time, but they will continue to evaluate the potential benefits of doing so as the litigation progresses. Mediation or other ADR may be helpful after the parties have engaged in or finished discovery.

**C. Related Cases.**

The parties are not aware of any related cases.

**D. Discovery Management.**

The parties agree that there should be no limitations on discovery imposed under the Federal and Local Civil Rules or other limitations at this time.

**E. Anticipated Discovery Sought.**

The parties anticipate that discovery will be sought regarding consent to arbitration, damages, class size, the elements of each claim, and Whitepages' defenses, including those relating to class certification. It is anticipated that there will be experts regarding damages and search engine optimization.

**F. Phasing Motions.**

Whitepages has moved to dismiss and to compel arbitration. Plaintiffs oppose these motions. If the matter is not arbitrated, Whitepages may file at least one motion for summary judgment prior to Plaintiffs' motion for class certification.

**G. Preservation of Discoverable Information.**

Both parties have taken reasonable steps to preserve discoverable information. Plaintiffs have advised Defendant of its obligation to preserve versions of the webpages described in the Complaint to avoid spoliation; Defendant has indicated that it understands its preservation obligations.

**H. Privilege Issues.**

The parties do not anticipate any unique issues relating to privilege and will include in their ESI agreement and proposed protective order provisions concerning inadvertent disclosure of privileged material or work product.

**I. Model Protocol for Discovery of ESI and Modifications of Those Protocols.**

The parties intend to file a modified version of the Model ESI Protocol no later than December 20, 2024.

**7. The Date by Which Discovery can Be Completed.**

The parties agree that the deadline for the first phase of discovery (i.e., concerning plaintiff's individual claims and class certification) should be September 26, 2025. If necessary, the deadline for remaining class discovery should be April 3, 2026.

**8. Bifurcation.**

At this point, the parties do not believe that this case is appropriate for bifurcation as to liability and damages.

**9. Pre-trial Statements and Pre-trial Order.**

At this point, the parties do not believe that the pretrial statements and pretrial order required by the Local Civil Rules 16(e), (h), (i), and (l) and 16.1 should be dispensed with in whole or in part for the sake of economy.

**10. Individualized Trial Program or ADR**

The parties do not intend to use the Individualized Trial Program set forth in Local Civil Rule 39.2. At this time, the parties are not prepared to engage in any of the ADR options listed in Local Civil Rule 39.1, with the caveat that Whitepages has moved to compel arbitration of this dispute.

**11. Suggestions for Shortening or Simplifying the Case.**

The parties have no additional suggestions for shortening or simplifying the case at this time.

**12. Proposed Trial Date.**

The parties propose a trial date of September 14, 2026 or the next date most convenient for the Court.

**13. Jury or Non-Jury Trial.**

Plaintiffs' Position: Plaintiffs intend to seek a jury trial (and believe Defendants cannot show their consent to the Terms of Use).

Defendant's Position: Whitepages believes Plaintiffs are not entitled to a jury trial based on the Terms of Use.

**14. Proposed Number of Trial Days.**

The parties estimate that trial will require approximately 7 days if no class is certified and 14 days if a class is certified. This preliminary estimate may change as a result of discovery or dispositive motions.

**15. Contact Information for all Trial Counsel.**

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**16. Conflicting dates.**

Plaintiffs' trial counsel has the following complications for the Court's consideration in setting the trial date:

- Unavailable dates (other trials):
- Unavailable dates (vacations):

Whitepage's trial counsel has the following complications for the Court's consideration in setting the trial date: Whitepages does not have any unavailable dates in September 2026.

- Unavailable dates (other trials):
- Unavailable dates (vacations):

**17. Status of Service.**

As of the date of this report, Defendant Whitepages, Inc. has been served with the Complaint.

**18. Pretrial Fed. R. Civ. P. 16 Conference.**

The parties do not require a scheduling conference prior to entry of a scheduling order in this case.

**19. Dates corporate party filed its disclosure statement.**

Defendant filed a corporate disclosure statement on October 1, 2024. Dkt. 11.

SUBMITTED this 25th day of November, 2024.

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